

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: APPLICATION FOR EXEMPTION
FROM ELECTRONIC PUBLIC ACCESS
FEES BY JENNIFER GOLLAN AND
SHANE SHIFFLETT,

No. 12-16373

JENNIFER GOLLAN and SHANE
SHIFFLETT,
Applicants - Appellants.

**MOTION FOR LEAVE TO PRESENT ORAL ARGUMENT
BY AMICUS CURIAE ADMINISTRATIVE OFFICE
OF UNITED STATES COURTS**

Pursuant to FRAP 27 and 29(g), amicus curiae the Administrative Office of United States Courts (AO) respectfully requests permission to present oral argument in this case. Pursuant to Local R. 27-1(2), Rochelle Wilcox, counsel for applicants-appellants, has authorized us to advise the Court that they do not oppose the relief requested in this motion.

This case is a putative appeal by two individuals who applied before the district court for an exemption from fees adopted by the Judicial Conference of the United States for access to electronic records of the

federal courts. That application was denied by Chief Judge James Ware in an ex parte decision not associated with any docketed case in district court. No adversarial party has been identified by the applicants-appellants, and no other party has appeared in this Court or the district court.

This Court, in an order dated October 24, 2012, observed that “it would be helpful to this court’s review of [Chief Judge Ware’s] order to have briefing from the Judicial Conference and/or the Administrative Office of the Courts” addressing the jurisdiction of this Court as well as the merits. 10/24/12 Order 1. Accordingly, the Court invited the United States Department of Justice to notify the Court whether the government would appear on behalf of the Judicial Conference or the AO as amicus curiae or as an intervenor. *Id.* at 2. On December 21, 2012, undersigned counsel informed the Court that the AO would appear and file a brief as amicus curiae. The AO’s amicus brief was filed on January 22, 2013, and applicants-appellants filed a reply brief addressing the AO’s arguments on March 7, 2013.

This Court has calendared the case for argument on June 10, 2013, in San Francisco. Applicants-appellants have indicated that they plan to present oral argument. The AO seeks leave to present oral argument to address the issues identified by this Court as relevant to the Court's review of Chief Judge Ware's order denying the application at issue.

Leave to present oral argument is appropriate in this case because the Court has invited the government's participation as *amicus curiae* on behalf of the AO. The interest of the judiciary in the interpretation of the Judicial Conference policy on fees is apparent and has already been recognized by this Court. There is no other party representing the interests of the federal courts in this case. Indeed, there is no adversarial party at all.

The Court has scheduled the oral argument in this case for 15 minutes per side. In the absence of any argument by an appellee, we respectfully suggest that it would be appropriate to designate 15 minutes of argument time to the AO as *amicus curiae*. The AO's argument should be presented following appellant's opening argument, and could be followed by any rebuttal argument, if desired by appellant's counsel.

CONCLUSION

For the foregoing reasons, the Court should grant leave for the AO to present oral argument as amicus curiae.

Respectfully submitted,

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MAY 2013

CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2013, I electronically filed the foregoing Motion For Leave To Present Oral Argument By Amicus Curiae Administrative Office Of United States Courts by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ H. Thomas Byron III

H. THOMAS BYRON III